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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,487	01/25/2002	Lisa A. Racie	08702.0073-00000	3565
22204	7590	03/10/2004	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			SLOBODYANSKY, ELIZABETH	
			ART UNIT	PAPER NUMBER
			1652	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.

10/057,487

Examiner

Elizabeth Slobodyansky,  
PhD

Applicant(s)

RACIE ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 6/3/03 & 11/25/03.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 22 December 2003 but it does not constitute a proper reply, ~~or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.144.~~ (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet

*E. Slobodyansky*

Elizabeth Slobodyansky, PhD  
Primary Examiner  
Art Unit: 1652

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: The reply did not place the application in condition for allowance because it does not comply with the requirements set forth in the Ex parte Quayle action mailed June 3, 2003 (page 4) for at least the following reasons. Non-elected claims are not canceled. Applicants state that in the substitute specification filed December 22, 2003, "all references to Figure 1 and most references to SEQ ID NOs. 2 and 3" were deleted (Remarks of 12/22/03, page 7). It appears that all references to SEQ ID NOs: 1, 2, 3 were deleted. However, said sequences remain in the Sequence Listing.